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Fresno, California

June 29, 2004

The City Council met in regular session at the hour of 8:33 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
 Hilda Cantu Montoy, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor Ed Huffman, Woodward Park Baptist Church gave the invocation and President Castillo led the Pledge of Allegiance to the Flag.

PRESENTATION TO THE CITY BY JAY NORVEL, STATE OF CALIFORNIA, OF THE 2004 EXCELLENCE IN TRANSPORTATION AWARD FOR THE SHAW AND MARKS AVENUES INTERSECTION

PRESENTATION OF LIFE SAVING COMMENDATION TO CODE ENFORCEMENT EMPLOYEE JOHN TANKLSEY

The above award and commendation were read and presented.

APPROVE CITY COUNCIL MINUTES:

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of June 22, 2004, approved as submitted.

APPROVE JOINT POWERS FINANCING AUTHORITY (JPFA) MINUTES:

On motion of Member Duncan, seconded by Member Boyajian, duly carried, RESOLVED, the JPFA minutes of June 15, 2004, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

REQUEST STAFF TAKE THE INITIATIVE IN THE CITY PROPERLY RECOGNIZING LEO MORENO WHO GAVE HIS LIFE TO SAVE THE LIFE OF ANOTHER BY POSSIBLY NAMING A BUS STOP AFTER HIM ALONG WITH A PLAQUE - COUNCILMEMBER DUNCAN

Request made.

HAPPY BIRTHDAY TO ACTING PRESIDENT PEREA - COUNCILMEMBER DUNCAN

Birthday wishes extended.

REQUEST TO STAFF TO LOOK INTO CONTROLLING OR PROHIBITING PEOPLE FROM RUMMAGING THROUGH GARBAGE BINS PLACED OUT IN THE STREET - COUNCILMEMBER DAGES

Request made.

REQUEST TO STAFF TO BRING FORTH THE UPDATED UGM FEES AS SOON AS POSSIBLE - COUNCILMEMBER DAGES

Request made with Councilmember Dages stating the lack of moving forward with the update was costing the City money with all the increased construction going on in southeast Fresno.

PARTNERING WITH FRESNO UNIFIED SCHOOL DISTRICT TO FUND THE DEFUNDED MUSIC PROGRAM WITH THE \$1.6 MILLION ALLOCATED IN THE BUDGET FOR EDUCATIONAL AFTER-SCHOOL PROGRAMS - PRESIDENT CASTILLO

President Castillo spoke in support of the music program stating it worked and advised this idea was in the preliminary stages and he would be placing the matter on an upcoming agenda.

APPROVE AGENDA:

(2-B) CONSIDER DIRECTION TO STAFF TO PREPARE AN ORDINANCE PERMITTING THE CITY TO CREATE COMMUNITY FACILITIES DISTRICTS (CFDs) IN THE CITY THAT MAY CONSTRUCT FACILITIES AND/OR MAINTAIN FACILITIES/PROVIDE SERVICES IN ADDITION TO THOSE PERMITTED UNDER STATE STATUTES

Removed from the agenda by staff/to be rescheduled.

(2-C) AUTHORIZE AND APPROVE THE AMENDED CONTRACT BETWEEN THE CITY OF FRESNO POLICE DEPARTMENT AND CURRENT ROTATIONAL TOW OPERATORS

1. BILL NO. B-58 - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO THE POLICE DEPARTMENT ROTATION TOW PROGRAM

At the request of Councilmember Dages and with Council consensus, Item 2-C set for 5:00 p.m. for the convenience of tow operators.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

ADOPT CONSENT CALENDAR:

Gloria Torrez stated consent calendar items were not routine and needed to be discussed/voted upon separately; relative to Item 1-G stated Transit money was used for a portion of the Santa Fe Depot project and she wanted to see a plaque installed indicating the amount of funds that were given up; and relative to Item 1-L stated the Measure C money going to Calcot needed to stay with FAX for much needed improvements and elaborated.

(1-B) ADOPT RESOLUTION OF INTENTION NO. 1027-D2 - RESCINDING RES. 2002-146 AND VACATING MAIN STREET BETWEEN "N" AND "O" STREETS, PORTIONS OF "N" AND "O" STREETS BETWEEN TULARE AND MAIN STREETS, A PORTION OF THE "N-O" ALLEY BETWEEN TULARE AND MAIN STREETS, A PUBLIC UTILITY EASEMENT IN THE "N-O" ALLEY ALIGNMENT BETWEEN TULARE AND MAIN STREETS, AND A PUBLIC UTILITY EASEMENT IN OUTLOT "A" OF PARCEL MAP NO. 83-46, AND SETTING A PUBLIC HEARING FOR JULY 20, 2004

(1-C) ADOPT RESOLUTION OF INTENTION NO. 1035-D SETTING A PUBLIC HEARING FOR JULY 27, 2004, AT 10:00 A.M. ON THE VACATION OF A PORTION OF N. VAN NESS AVENUE BETWEEN W. HERNDON AND W. BEECHWOOD AVENUES

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(1-D) APPROVE THE PURCHASE OF A 10-FOOT BY 80-FOOT STRIP OF LAND ADJACENT TO PUMP STATION NO. 22A LOCATED AT HIGHWAY 99 AND STANISLAUS STREET FOR EXPANSION OF THAT WELL SITE, FOR THE AGREED UPON CONSIDERATION OF \$4,000, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, INTERIM DIRECTOR, OR ASSISTANT DIRECTOR TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION

(1-F) RESOLUTION NO. 2004-217 - DEDICATING CERTAIN CITY-OWNED PROPERTY LOCATED AT THE SOUTHEAST CORNER OF MARKS AND CALIFORNIA AVENUES FOR PUBLIC STREET PURPOSES

(1-G) APPROVE REQUEST FROM REYMAN BROTHERS CONSTRUCTION, INC., TO SUBSTITUTE SUBCONTRACTOR DOUG ROSE PAINTING WITH REYMAN BROTHERS CONSTRUCTION FOR THE PAINTING PORTION OF THE SANTA FE DEPOT REHABILITATION PROJECT

Councilmember Calhoun stated he supported the issue as it dealt with painting but noted there was a problem with asbestos and questioned where staff was going to come up with the \$200K needed for the asbestos removal.

(1-H) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH BROOKS RANSOM ASSOCIATES IN THE AMOUNT OF \$158,580 FOR ADDITIONAL DESIGN SERVICES RELATED TO THE CONSTRUCTION OF THE NEW LABORATORY BUILDING AND ADDITIONAL PARKING AREAS AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF), AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE SAME

(1-I) APPROVE APPOINTMENTS OF MICHAEL MONTGOMERY TO THE FULTON-LOWELL IMPLEMENTATION PLAN COMMITTEE, AND ENOLA HORN AND ELLINGTON JORDAN TO THE EDISON MERGER II CITIZENS PLANNING ADVISORY COMMITTEE - COUNCILMEMBER STERLING

(1-J) RESOLUTION NO. 2004-218 - APPROVING THE FINAL MAP OF TRACT NO. 4993 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PROPERTY LOCATED ON THE WEST SIDE OF N. ARMSTRONG BETWEEN E. DAKOTA AND E. ASHLAN AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE
2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES, AND THE STATEMENT OF COVENANTS PROVIDING FOR SANITARY SEWER CAPACITY IN THE FOWLER AVENUE TRUNK SEWER AND DEFERRING PAYMENT OF INTERIM FEE SURETY TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN
3. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR PLANTING AND MAINTAINING FRONT YARD TREES, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-K) RESOLUTION NO. 2004-219 - APPROVING THE FINAL MAP OF TRACT NO. 5163 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PROPERTY LOCATED NORTH OF THE HERNDON CANAL NORTH OF W. SHAW BETWEEN THE N. HAYES AND N. BRYAN AVENUE ALIGNMENTS

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE
2. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR PLANTING AND MAINTAINING FRONT YARD TREES

(1-L) RESOLUTION NO. 2004-220 - CONCERNING LOCAL TRANSPORTATION PURPOSE FUNDS "MEASURE C"

1. AUTHORIZE THE CITY MANAGER TO EXECUTE THE LOCAL TRANSPORTATION PURPOSES CERTIFICATION AND CLAIM FORM

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(4-A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY BOB DeFRANCE TO DISCUSS THE POLICE MAGEC UNIT

Appearance made with Mr. DeFrance speaking in strong support of the unit stating it was very positive for the community and urged Council to keep these types of programs in place.

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The City Council recessed at 9:05 a.m. and convened in joint session with the Redevelopment Agency.

(9:00 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

("A") RECEIVE STATUS REPORT ON THE OLD ARMENIAN TOWN PROJECT - PRESIDENT CASTILLO

Director Fitzpatrick gave an overview of the project and a status report on the disposition and development agreement (reading into the record a memo received from the City/RDA's outside counsel summarizing the status of the agreement), advised staff planned to return to the joint bodies in August with the D&DA for final approval, stated an important factor to note was the D&DA would have to reflect key components of the conveyance agreement recently signed with the State of California, and thanked the developer and his team for staying with the city all these past years and putting together some very complex tasks.

Gunner Andros (developer) representatives Lowell Carruth, Attorney/minority principal in the development, and Dennis Frye, member of the LLC/CPA for Gunner Andros, displayed renderings of the project and explained the developers' position on the issue, costs expended since March of 1999, what development work has taken place to date, and **(2 - 0)** spoke to the history of the project and concluded stating this was going to be *the* best project ever built in the city of Fresno.

Mr. Carruth, Mr. Fitzpatrick and City Attorney Montoy responded at length to questions and comments of President Castillo relative who the competitor was, amount the Agency has spent to date for the project, amount of land the RDA has purchased, land values in 1998, total acreage when fully built-out, the value the RDA has added to the land, concern that there is still no agreement and the RDA continues to assemble land and add value, need for all players at the table to "pitch in", when an agreement was anticipated, specifics of the agreement/what was needed, and staff's involvement.

Speaking to the issue were: John Hudson, support for the developer and project due to the need for jobs; and Barbara Hunt, 2475 S. Walnut, who spoke to the conflict of interest with the Council acting as the RDA, expressed concern with using eminent domain, and spoke to tax increment and putting that money back into the community.

Councilmembers Duncan and Boyajian thanked the developer and team for their time, investment and their patience, apologized to the developer for having come here this date to seemingly try and defend their interest in investing millions of dollars in downtown and added any negative perceptions were not unanimous, and spoke in strong support of the project stating it was welcomed and would be a jewel for the community. President Castillo clarified his questions were not intended to be insulting, stated he was used to work getting done and reiterated everyone needed to work faster, and thanked the developers for their investment.

There was no further discussion.

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The joint bodies adjourned their meeting at 9:48 a.m. and the City Council reconvened in regular session at 9:49 a.m.

(3-A) DIRECT THE CITY ATTORNEY TO WORK WITH THE PLANNING DIRECTOR TO DRAFT AN ORDINANCE TO REDUCE THE GEOGRAPHIC INTENSITY OF APARTMENTS, IN COMPLIANCE WITH ALL APPLICABLE LAWS, AND MAKE IT MANDATORY FOR ALL APARTMENTS TO BE GATED COMMUNITIES AND INCLUDE GARAGES

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Councilmember Dages reviewed the issue stating he wanted to stop blight and the number of apartments in one geographical area and stated garages and gated communities were needed for security and elaborated, and requested Council's support in this issue and made a motion to approve the direction as outlined above.

Barbara Hunt, 2475 S. Walnut, spoke to the housing issue and the need for apartments/affordable housing.

Councilmember Calhoun clarified his past argument against the large complex in his district was not against apartments per se but was about slowing down construction and not filling out the 2025 general plan in 2004; noted Councilmember Dages raised some good points but he felt the direction was a little too extreme; and stated staff input was first needed on these issues and he could not support the motion. Councilmember Duncan stated legitimate points and concerns were raised and presented questions relative to what policies were in place in the general plan to address these issues, and when the next review of the general plan would occur/when the process would start/when Council could start to amend the plan, with Planning & Development Director Yovino responding. Councilmember Duncan stated he sympathized with concerns expressed but clarified a process was in place to deal with these issues, noted he had a concern with requiring garages for all apartments due to cost issues, **(3 - 0)** and stated his tendency was to support the general plan process and encouraged Council to follow the process and address these issues next year when the process starts. Upon question of Councilmember Boyajian, City Attorney Montoy stated the city could require gated communities and garages however there would be substantial hurdles to go through and the assignment would be a challenging one and explained. Councilmember Boyajian stated he has been opposed to the concentration of apartments in one area, advised he visited district 5 and could see the amount of "helter-skelter" building occurring and did not see a plan, and stated although he would support the motion he felt the right way to address these issues was with through an EIR. Councilmember Sterling stated she understood Councilmember Dages' concerns and spoke to the tent city issue in her district, security, and the need for/benefit of security gates. Acting President Perea advised he was willing to support the motion so further discussion could occur, stated he felt slumlords was the real issue and that needed to be incorporated into the apartment ordinance, and upon his question staff confirmed they would work with the Apartment Association in drafting the ordinance.

Ms. Montoy stated as staff gets into the issue it may be determined there are various ways to get to where Council wants and advised staff may come back in 30-45 days with a report detailing various options, whereupon Councilmember Dages modified his motion to direct staff to return in the first meeting in September. Councilmember Duncan stated he would support the motion if it was further modified to direct staff to bring back *options* to discuss and not an ordinance, which was accepted by Councilmember Dages.

President Castillo stated the market controlled itself and he did not see enforcing this as a real serious problem down the road, pointed out one of the key issues Councilmember Dages was trying to deal with was the quality of apartments stating it was no secret that in north Fresno just about every apartment had landscaping, tile roofs, etc., yet in south Fresno the apartments looked like matchboxes, and questioned how and if CFDs (community facilities districts) could be formed for apartments and requested staff report back on that as part of the options, with Ms. Montoy responding.

On motion of Councilmember Dages, seconded by Councilmember Boyajian, duly carried, **RESOLVED**, the city attorney directed to work with the planning director and return on September 21st with options to reduce the geographic intensity of apartments, in compliance with all applicable laws, and make it mandatory for all apartments to be gated communities and include garages, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

RECESS - 10:26 A.M. - 10:40 A.M.

(10:05 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 70, FINAL TRACT MAP NO. 5096

- 1. RESOLUTION NO. 2004-221** - DIRECTING PREPARATION OF A MODIFIED REPORT ANALYZING IMPACT OF PROPOSED INCREASE IN PROBABLE SPECIAL TAX FOR PROPOSED MODIFICATION TO RESOLUTION NO. 2004-175
- 2. RESOLUTION NO. 2004-222** - RECEIVING AND APPROVING THE MODIFIED ENGINEER'S REPORT AND MODIFYING RESOLUTION OF INTENTION NO. 2004-175
- 3. RESOLUTION NO. 2004-223** - ANNEXING TERRITORY TO CFD NO. 2, ANNEXATION NO. 70, AND AUTHORIZING THE LEVY OF A SPECIAL TAX

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4. RESOLUTION NO. 2004-224 - CALLING A SPECIAL MAILED BALLOT ELECTION**5. RESOLUTION NO. 2004-225 - DECLARING ELECTION RESULTS****6. BILL NO. B-60 - ORDINANCE NO. 2004-60 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Public Works Director Kirn reviewed the issue stating this was different from other CFDs in that the landscaping would be turf which required a more frequent/higher level of maintenance necessitating a higher annual cost -- \$300 per year per lot compared to \$132.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the tax.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Mr. Kirn responded to questions of Councilmember Calhoun relative to specialized treatments and whether there was a reasonable limit to what a developer could plant, if staff would be able to maintain once a week, if the city was going down a rocky road, and if any other areas were at the \$300 level. Councilmember Calhoun made a motion to approve staff's recommendation, which motion was seconded by Councilmember Dages who stated he was pleased to see the higher fee as it ensured the maintenance would be taken care of citing another subdivision. Mr. Kirn and City Attorney Montoy responded to questions of President Castillo relative to forming home owner's associations, the move of the landscaping maintenance function to the streets division and if any realized savings would go back to the property owner, if any other subdivisions have been brought forth at an increased amount, what accounting measures were in place, and the number of tracts in CFD No. 2.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-221, 2004-222, 2004-223, 2004-224 and 2004-225 hereby adopted, and the above entitled Bill No. B-60 adopted as Ordinance No. 2004-60, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(10:30 A.M.) HEARING ON PLAN AMENDMENT NO. A-03-21, REZONE APPLICATION NO. R-03-83, AND ENVIRONMENTAL FINDINGS, FILED BY GRANVILLE HOMES, PROPERTY LOCATED ON THE EAST SIDE OF N. GRANTLAND BETWEEN W. BARSTOW AND W. SIERRA AVENUES IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-21/R-03-83/C-04-42/T-5247

2. RESOLUTION NO. 2004-226 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

3. BILL NO. B-61 - ORDINANCE NO. 2004-61 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-R (RURAL RESIDENTIAL-FRESNO COUNTY) AND AE-5/UGM TO R-1/UGM AND C-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh reviewed the issue at length, all as contained in the staff report as submitted, and recommended approval.

Jeff Roberts, 1396 W. Herndon, on behalf of Granville Homes, stated he concurred with the staff, area committee and planning commission recommendations, and spoke to how the property would be developed.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, opposed **(4 - 0)**; and Allen (last name unintelligible), 5238 W. Garland, West Area Committee member, opposed.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Mr. Roberts, Mr. Unruh, City Manager Hobbs and Public Works Director Kirn responded to comments/concerns made by the speakers and President Castillo relative to Caltrans' response, signalization costs, need for the UGM fee update, and number of revised

fees that will be coming forth in July.

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Councilmember Calhoun stated the general plan was driving this development and the developer was doing exactly what the general plan was asking him to do, spoke in support of the project and the process adding this was a new area and good things were happening, and stated a good general plan was in place, this project needed to be looked at as an example of that plan, and made a motion to approve staff's recommendation, which motion was seconded by Acting President Perea.

Discussion continued with Mr. Unruh and Mr. Roberts responding to questions, comments and/or concerns of Councilmembers Boyajian and Sterling relative to what the developer and Caltrans agreed to, if there was any agreement on proportional dollars for the Herndon underpass and the Parkway/Herndon intersection, impacts to the Herndon underpass, importance for the developer to pay his fair share, Shaw/99, Herndon underpass and Grantland Avenue impacts, lack of traffic signals, what improvements were made by the developer, what needed to occur to bring everyone together to make the project a little more workable, need for advanced planning, and request to make the area residents more a part of the development process.

Relative to the conditions being met under the traffic study, City Attorney Montoy and Mr. Unruh clarified there was no formal agreement and Caltrans' was agreeing that the city's conditions imposed on the developer were sufficient to meet their concerns, and further clarified all mitigation measures identified in the general plan EIR, CEQA analysis for this project, and the traffic study were all being imposed by the department and accepted by the developer.

Planning & Development Director Yovino, Ms. Montoy and Public Works Director Kirn responded to questions and comments of President Castillo relative to whether there was a plan for the west area, the two main roads being located in the county, if all the fee issues brought up would be covered when staff brings forth their report, if the new UGM fees will allow the city to impose a transportation fee, lack of bus ridership, and developers always being willing to pay their fair share. Councilmember Calhoun pointed out staff was stating there were challenges in dealing with Fresno County and added the elimination of those problems could happen here by merging governments.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-03-21/R-03-83/C-04-42/T-5247 dated May 12, 2004, hereby approved, the above entitled Resolution No. 2004-226 hereby adopted, and the above entitled Bill No. B-61 adopted as Ordinance No. 2004-61, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

(10:45 A.M. #1) HEARING ON REZONE APPLICATION NO. R-03-81, AND ENVIRONMENTAL FINDINGS, FILED BY R. W. GREENWOOD ASSOCIATES, INC., PROPERTY LOCATED ON THE EAST SIDE OF N. CHESTNUT BETWEEN E. COPPER AND E. INTERNATIONAL AVENUES IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-81/T-5229, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

2. BILL NO. B-62 - ORDINANCE NO. 2004-62 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROJECT SITE FROM COUNTY OF FRESNO AL-20 TO R-1-C/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Beedle reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Charlie Maxwell, representing the applicant, who stated he agreed with staff's recommendation; Rod Harper, 2505 E. Copper, who spoke to the private road issue; Barbara Hunt, 2475 S. Walnut; and Shirley Hacker, who spoke further to the private road stating she wanted it blocked off when construction starts due to liability issues **(5 - 0)**.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Upon the request of Councilmember Duncan, Planning Manager Unruh clarified access would be on Chestnut Avenue and the project would not rely on the private and.

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On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the environmental finding of E.A. No. R-03-81/T-5229, dated May 10, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-62 rezoning the project site adopted as Ordinance No. 2004-62, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

LUNCH RECESS - 12:02 P.M. - 2:02 P.M.

(2:00 P.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-A) AWARD A CONTRACT TO KME FIRE APPARATUS OF ONTARIO, CA, FOR ONE WATER TENDER

Purchasing Manager Smith and Fire Bureau Chief Aranaz clarified issues/responded to questions of Councilmember Calhoun relative to whether taxpayer dollars were being used wisely by awarding a single-source contract and at \$18K more than the estimate, number of capable companies and response from only one bidder, what product/service the other companies provided, if this was affordable due to the complex apparatus and only one bid received at a higher price, and why the twenty-one other companies did not bid and if staff was surprised at that. Councilmember Calhoun stated he was uncomfortable with the process and the need for the apparatus.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, a contract hereby awarded to KME Fire Apparatus of Ontario CA, in the amount of \$318,980.98 for the purchase of one (1) water tender, by the following vote:

Ayes : Boyajian, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Calhoun
 Absent : None

(1-E) RESOLUTION NO. 2004-227 - AUTHORIZING THE PURCHASING MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH IBM OF FRESNO FOR THE PURCHASE AND INSTALLATION OF A WIRELESS MOBILE NETWORK SYSTEM AT A COST NOT TO EXCEED \$750,000 WITHOUT COMPETITIVE BIDDING

Councilmember Calhoun stated this was an expensive process but the more important question was whether this system would do the job, stated his concern was hopefully this was not a band-aid approach, and questioned if the city was leading the pack by purchasing this system or if it was learning from other models, and if 52% of the system would light up at the conclusion of the installation, with Chief Dyer responding.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-227 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

Councilmember Calhoun noted more sole-source purchases were coming forth and he was not sure of the reasons and stated Purchasing was a great department but he wanted to make sure the city had competitive bidding out there, with Ms. Smith responding and advising the city averaged 5 sole source purchases a year.

(2:00 P.M. #2) CLOSED SESSION:**(A) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:**

1. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39

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2. FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)
3. AMALGAMATED TRANSIT UNION, LOCAL 1027 (ATU)
4. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)
5. CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (CFPEA)
6. CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA)
7. FRESNO POLICE OFFICERS ASSOCIATION - MANAGEMENT (POLICE MANAGEMENT)

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. CITY OF CERRITOS V. STATE BOARD OF EQUALIZATION, ALAMEDA SUPERIOR COURT CASE NO. RG04144275
2. BAKMAN WATER COMPANY, INC. V. BOEING NORTH AMERICAN, INC, CITY OF FRESNO, THE U.S.A. DEPARTMENT OF ARMY CORPS OF ENGINEERS, ET AL, USDC CASE NO. CIV F-01-6249 REC DLB

(C) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: OLD HAMMERFIELD/FRESNO AIR TERMINAL ("OHF/FAT") ENVIRONMENTAL SITE

The City Council met in closed session in Room 2125 at the hour of 2:23 p.m. to consider the above issues and reconvened in regular open session at 3:39 p.m. Councilmember Calhoun and Acting President Perea arrived later.

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(2-A) APPROVE AMENDMENT TO SECTION 3-1 (COMPENSATION) OF EXISTING AGREEMENT BETWEEN THE CITY OF FRESNO AND RENEE V. MAYNE, A SOLE PROPRIETORSHIP, FOR LABOR NEGOTIATION SERVICES, TO BE INCREASED FROM \$49,500 TO AN AMOUNT NOT TO EXCEED \$87,500

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, a modification to the Agreement between the City and Renee V. Mayne, entered into March 1, 2004, to increase the stated total fee of \$49,500 in Section 3-1 to an amount not to exceed \$87,500 hereby approved, and the Personnel Director authorized to execute the agreement on behalf of the City, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Sterling, Castillo
Noes :	None
Absent :	Calhoun, Perea

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(10:45 A.M. #3) HEARING ON REZONE APPLICATION NO. R-04-16, AND ENVIRONMENTAL FINDINGS, FILED BY SUMMITHILL DEVELOPMENT, LLC, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF S. MAPLE AND E. CHURCH AVENUES IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT E.A. NO. R-04-16/T-5287, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT NO. 10130
2. **BILL NO. B-63 - ORDINANCE NO. 2004-63** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM T-P/UGM AND R-A/UGM TO R-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Councilmembers Perea and Calhoun arrived at 3:40 p.m. and 3:42 p.m. respectively. Planner Braun reviewed the issue as contained in the staff report as submitted and recommended approval.

Dwight Hannah, on behalf of SummitHill Development, responded to questions of Councilmember Dages relative to whether the problem on Barton Avenue had been resolved, landscaping issues, and the project consisting of entry-level and upscale homes.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the environmental finding for E.A. No. R-04-16/T-5287, dated April 1, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-63 rezoning the subject property adopted as Ordinance No. 2004-63, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(10:45 A.M. #2) HEARING ON REZONE APPLICATION NO. R-04-02, AND ENVIRONMENTAL FINDINGS, FILED BY QUAD KNOPF ON BEHALF OF DS VENTURES, PROPERTY LOCATED ON THE NORTHEAST CORNER OF N. POLK AND W. MCKINLEY AVENUES IN COUNCIL DISTRICT 3

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-04-02/T-5284, DATED MAY 12, 2004

2. BILL NO. B-64 - ORDINANCE NO. 2004-64 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-5/UGM TO R-1/UGM (RELATED VESTING TENTATIVE TRACT MAP NO. 5284 PROPOSES TO SUBDIVIDE THE SUBJECT AREA INTO A 179-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION)

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Chamberlain reviewed the issue as contained in the staff report as submitted and recommended approval.

A Quad Knopf representative spoke briefly and requested Council approval.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Sterling spoke briefly to related issues and in support of the project, encouraged staff to press Caltrans for impact fees, and made a motion to approve staff's recommendation. Ms. Chamberlain and Planning Manager Unruh responded to questions and comments of Councilmember Boyajian relative to the developer paying for traffic signals and McKinley Avenue impacts, planned signal locations, and concern with the cumulative impacts (including school) and lack of vision and plan for the area.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. R-04-02/T-5284 dated May 12, 2004, hereby approved, and the above entitled Bill No. B-64 rezoning the subject property adopted as Ordinance No. 2004-64, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

RECESS - 3:52 P.M. - 4:03 P.M.

(4:00 P.M.) PROCLAMATION OF CHILDREN'S MUSICAL THEATERWORKS DAY - COUNCILMEMBER BOYAJIAN

The proclamation was read and presented, Joel Abels, Music Director, gave a brief overview of the group's summer productions, and the Children's Musical Theaterworks gave a short musical performance **(6 - 0)**.

(4:15 P.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-03-22, REZONE APPLICATION NO. R-03-69, REZONE APPLICATION NO. R-03-84, AND ENVIRONMENTAL FINDINGS, FILED BY INGELS-BRAUN ON BEHALF OF SUNNYSIDE RANCH, PROPERTY LOCATED ON THE WEST SIDE OF CLOVIS AVENUE BETWEEN THE UNION PACIFIC RAILROAD (CALIFORNIA AVENUE ALIGNMENT) AND SOUTH OF THE E. CHURCH AVENUE ALIGNMENT IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT FINDING OF A MITIGATED NEGATIVE DECLARATION FOR E.A. A-03-22/R-03-69/R-03-84/T-5258/T-5295

2. RESOLUTION NO. 2004-228 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE ROOSEVELT COMMUNITY PAN

3. BILL NO. B-65 - ORDINANCE NO. 2004-65 - AMENDING THE OFFICIAL ZONE MAP TO REZONE AN APPROXIMATELY 70 NET ACRE PORTION OF THE SITE FROM AE-5 AND AE-5/UGM TO R-1/UGM (RELATED VESTING TENTATIVE TRACT MAP NO. 5258 PROPOSES TO SUBDIVIDE THE AREA INTO 258 SINGLE FAMILY RESIDENTIAL LOTS), AS AMENDED

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4. BILL NO. B-66 - ORDINANCE NO. 2004-66 - AMENDING THE OFFICIAL ZONE MAP TO REZONE AN APPROXIMATELY 26 NET ACRE PORTION OF THE SITE FROM AE-5 AND AE-5/UGM TO R-1 AND R-1/UGM (RELATED VESTING TENTATIVE TRACT MAP NO. 5295 PROPOSES TO SUBDIVIDE THE AREA INTO 123 SINGLE FAMILY RESIDENTIAL LOTS)

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh reviewed the issue as contained in the staff report as submitted along with the written conditions which he distributed to Council.

Jim Robinson, 111 S. Johnson, Visalia, representing McMillin Homes, stated a lot of changes were made due to neighborhood meetings and input and added he concurred with staff's recommendations and was available to answer any questions.

Speaking to the issue were: Heidi Nakayama, 5459 E. Atchison, support with conditions; Cliff Davis, overall support/some concern with number of interior lots; Debby McCann, 5550 Columbia Drive South, questions relative to the California Avenue alignment/concern with lack of discussion on number of interior lots; and Deborah Goodwin, 2333 N. Bethel, Sanger, who questioned how many homes were being constructed for the disabled.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Brief discussion ensued on homes for the disabled and street plans and improvements, with Councilmember Dages and Mr. Robinson responding to questions

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the finding of Mitigated Negative Declaration for E.A. No. A-03-22/R-03-69/R-03-84/T-5358/T-5395 dated May 12, 2004, hereby approved, the above entitled Resolution No. 2004-228 hereby adopted, and the above entitled Bill Nos. B-65 and B-66 adopted as Ordinance Nos. 2004-65 and 2004-66, *as amended, adding conditions*, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

RECESS - 4:40 P.M. - 5:02 P.M.

(2-C) AUTHORIZE AND APPROVE AN AMENDED CONTRACT BETWEEN THE POLICE DEPARTMENT AND CURRENT ROTATIONAL TOW OPERATORS

1. BILL NO. B-58 - ORDINANCE NO. 2004-67 - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO THE POLICE DEPARTMENT ROTATION TOW PROGRAM

Councilmember Dages stated his concern was with non-negligent owners/rental car companies being penalized for impounded cars and it was his understanding issues had been worked out, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Duncan and acted upon after extensive discussion.

City Attorney Montoy and Chief Dyer noted the ordinance was introduced last week with public input and Chief Dyer gave a summary of the proposed ordinance and contract.

Speaking to the issue and expressing various concerns were: Joe Petz, Joe's Towing, 3423 E. Hammond; Brook Hartman, 5104 E. Clinton Way; Joseph Kitchen, 6 E. Lemon; Noe Hernandez, Central Azteca, 555 Tulare Street, Parlier; Francisco Duarte, 2203 Norris Dr. W. **(7 - 0)**; David Boyko, 4568 E. Home; Roger Hanke, U-Save Auto Rental, 4736 E. Belmont; Jose Serna, Central Azteca, 5292 N. 6th Street; Gloria Torrez; Roy Graham, 3411 E. Balch, Transportation & Safety Consultant; Ignacio Garibay, 2533 N. Knoll; and Scott

Perry, 1222 Barstow, Clovis.

Upon call, no one else wished to be heard and President Castillo closed public testimony.

Discussion ensued with Ms. Montoy, City Manager Hobbs and Chief Dyer clarifying issues and/or responding to questions, comments and/or concerns of Councilmembers Duncan and Dages relative to whether there was any legal reason why action could not be taken this date

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to approve the matters as recommended, fees and if the city was making a profit, cars being impounded only because the law is being violated, sobriety checkpoints and results, saving lives being at issue and not making money, if the city attorney's office reviewed the ordinance, and concern with non-negligent owners/car rental companies being penalized and request to staff to make a good faith effort to resolve that issue. Relative to the concern for non-negligent owners, Ms. Montoy recommended the contract be approved and that the ordinance be adopted, as amended, adding the following italicized language to Section 6-1913 after the word "article": "...including establishing and entering into towing agreements subject to approval by the city attorney.", which she clarified would allow the police chief to work with some of the car owners. The motion was then amended by the motion makers to add that language.

Lengthy discussion continued with Chief Dyer, Ms. Montoy, Assistant City Attorney Hale and Mr. Hobbs clarifying issues and/or responding to questions, comments and/or concerns of Councilmembers Sterling, Boyajian and President Castillo relative to the "black list" comments and number of calls received, why the police department -- and not the tow companies -- could not charge the \$50 fee directly, if the vehicle code was referred to when the ordinance was drafted **(8 - 0)**, Mr. Petz' interpretation of the vehicle code section he spoke to and the city attorney's reading that the proposal was in compliance with the vehicle code, taxpayers subsidizing the program and the intent being to recoup costs, need to be sensitive to victims who become victims, meaning of cost recovery and concern with that term due to funds/impound fees being built into the budget, concern with Fresno's high fees compared to other cities, and feelings of intimidation and concern with testimony given about comments made to tow operators who expressed concerns.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the amended contract between the Police Department and current rotational tow operators hereby approved, and the above entitled Bill No. B-58 adopted as Ordinance No. 2004-67, as amended, adding the italicized language to Section 6-1913 after the word "article" as follows: "...article, including establishing and entering into towing agreements subject to approval by the city attorney.", by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea
Noes : Sterling, Castillo
Absent : None

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 6:41 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the ____20th____day of _____July_____, 2004.

_____/s/_____
ATTEST:_____/s/_____

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk

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